

ROB BONTA, State Bar No. 202668
Attorney General of California
JANET N. CHEN, State Bar No. 283233
Supervising Deputy Attorney General
ARTHUR B. MARK III, State Bar No. 220865
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-7345
Fax: (916) 324-5205
E-mail: Arthur.Mark@doj.ca.gov
Attorneys for Defendants
State of California and California Department of
Corrections and Rehabilitation

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

JONATHAN ROBERTSON,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

1:23-cv-00975-NODJ-GSA

STIPULATION TO DISMISS STATE OF CALIFORNIA AND CDCR WITHOUT PREJUDICE; ALLOW FILING OF AMENDED COMPLAINT AND TO VACATE SCHEDULING CONFERENCE AND [PROPOSED] ORDER

Judge: Hon. Gary S. Austin
Trial Date: None set
Action Filed: June 29, 2023

1 Plaintiff and Defendants State of California and the California Department of Corrections
2 and Rehabilitation¹, after meeting and conferring concerning Plaintiff's allegations and claims as
3 stated in the First Amended Complaint (ECF No. 12), stipulate as follows:

4 1. The State of California and CDCR are dismissed without prejudice;

5 2. Plaintiff will file a second amended complaint within thirty days of the date of filing
6 this stipulation;

7 3. Defendant Pallares² shall have thirty-days from the date of filing of the second
8 amended complaint to file a response; and

9 4. The parties jointly request the Court vacate the scheduling conference currently set
10 for January 23, 2024, and reset the conference for a date following Defendant Pallares' response
11 to the second amended complaint. Good cause exists to vacate and reset the scheduling
12 conference as follows. The conference is currently set before Magistrate Judge Boone, to which
13 this case is no longer assigned (ECF Nos 18 and 22). Plaintiff is dismissing the State and CDCR,
14 and is filing an amended complaint. Accordingly, the case is not yet at issue sufficient for the
15 parties to provide initial disclosures or discuss and create a case schedule for this matter under
16 Federal Rule of Civil Procedure 26.

27 ¹ The Attorney General's Office does not anticipate representing Defendant Rodriguez.

28 ² The Attorney General's Office will accept service of the second amended complaint on
behalf of Defendant Pallares.

1 Dated: January 16, 2024

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 JANET N. CHEN
5 Supervising Deputy Attorney General

6 */s/ Arthur B. Mark III*

7 ARTHUR B. MARK III
8 Deputy Attorney General
9 *Attorneys for Defendants*
10 *State of California and California*
11 *Department of Corrections and*
12 *Rehabilitation*

11 Dated: January 13, 2024

THE JUSTICE FIRM

12 */s/ Joseph Virgilio*

13 As authorized 1/13/24

14 JOSEPH VIRGILIO
15 *Attorneys for Plaintiff*

[PROPOSED] ORDER

Good cause appearing, the parties' joint request is GRANTED.

1. The State of California and California Department of Corrections and Rehabilitation are dismissed without prejudice;

2. Plaintiff's second amended complaint shall be filed within thirty days of the date of this order;

3. Defendant Pallares' response to the second amended complaint shall be filed thirty days after the filing of Plaintiff's Second Amended Complaint; and

4. The scheduling conference set for January 23, 2024, is hereby vacated and reset to _____, 2024, at _____ before the undersigned. The parties' shall file a Joint Scheduling Report seven days before the conference.

IT IS SO ORDERED.

Dated: _____ 2024

Gary S. Austin, United States Magistrate Judge

SA2023306402
37794255.docx

CERTIFICATE OF SERVICE

Case Name: **Jonathan Robertson (AY-5276)** No. **1:23-cv-00975-NODJ-GSA**
v. State of California, et al.

I hereby certify that on January 16, 2024, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **STIPULATION TO DISMISS STATE OF CALIFORNIA AND CDCR WITHOUT PREJUDICE; ALLOW FILING OF AMENDED COMPLAINT AND TO VACATE SCHEDULING CONFERENCE AND [PROPOSED] ORDER**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on January 16, 2024, at Sacramento, California.

K. Vitalie

Declarant

/s/ *K. Vitalie*

Signature